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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,727	10/17/2003	Richard Heinen	DN2003176	1762

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THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
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EXAMINER

MAKI, STEVEN D

ART UNIT PAPER NUMBER

1733

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,727

Applicant(s)

HEINEN, RICHARD

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 060305, 101703.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is confusing because line 2 describes the caverns as being in a single block whereas line 3 describes the caverns as being in adjacent blocks. Is the at least one series formed in a single block or adjacent blocks? How many caverns are required in each block?

- 3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

French 970

- 5) **Claims 1, 3-9 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by French 970 (FR 2929970).**

Lopez (US 2004/0182487), which is not available as prior art, is an English language equivalent to French 970.

French 970 discloses a tire having a tread comprising lateral holes in opening onto at least one lateral face of an element in relief (rib or block). The holes may have a cylindrical or polygon shape.

The claimed tread is anticipated by French 970's tread. The claimed caverns read on the lateral holes disclosed by French 970. As to claim 11, adjacent lateral holes (caverns) in figure 5 are radially overlapping.

Kornelis et al

6) Claims 1, 3, 6, 7, 9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kornelis et al (WO 00/66372).

Kornelis et al discloses a tire having a tread comprising lugs. At least some of the lugs are provided with recessed indicia (42, 42a) at different radial heights for indicating wear. The claimed caverns read on the recessed indicia. A "tread element" / "block" reads on a lug. As to claim 14, the series of recessed indicia (caverns) are in the sidewall of a sloped lug. The description relating to "leading" relates to intended use and fails to require structure different than that disclosed by Kornelis et al. Since Kornelis merely prefers to place the indicia on a "trailing" side of the lug, Kornelis et al is considered to teach (as a non-preferred embodiment) placing the indicia on a "leading" side of the lug.

Japan 812

7) **Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 812 (JP 10-076812).**

Japan 812 discloses a tread having circumferential grooves, lateral grooves and blocks wherein a sidewall of block is provided with an intraland groove 7 (blind slot below the tread surface). The slot 7 may be formed in any of the tread grooves. The slot has a rectangular shape.

The claimed caverns read on the slots 7. As to claim 2, the slot has a base parallel to the tread surface.

Japan 711

8) **Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 711 (JP 10-315711).**

Japan 711 discloses a pneumatic tire having a tread comprising ribs and circumferential grooves wherein the sidewalls of the ribs are provided with a series of rectangular slots 4. The slots may alternatively have an elliptical / concave shape (paragraph 33 of machine translation). The slots may be applied to a block pattern as an alternative to applying the slots to a rib pattern (paragraph 30 of machine translation). The slots may have different radial heights such that adjacent slots radially overlap (figure 4).

The claimed caverns read on the slots 4. As to claim 2, the base of the slot is parallel to the tread surface. As to claim 4, Japan 711 provides the slots in sidewalls of ribs. As to claim 5, the slots may have different radial heights. See figure 4. As to

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claim 8, Japan 711 provides the slots in sidewalls of ribs. As to claim 10, "the base being provided with information to indicate the state of wear of the tread" reads on the *height* of the base of the slot from the groove bottom and fails to require additional structure (e.g. recessed / projecting structure in the form of number(s)). As to claim 11, adjacent slots may radially overlap. See figure 4.

Japan 414

9) **Claims 1, 3-9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 414 (JP 2000-289414).**

Japan 414 discloses a pneumatic tire having a rib, lug or block tread pattern (paragraph 12 of machine translation). In figure 1, a block pattern is illustrated. The sides of the blocks are provided with abrasion / wear detection sections, which may be a line, number, letter, etc. in a concave form or convex form. See paragraph 11 of machine translation.

The claimed caverns read on the concave numbers disclosed by Japan 414. As to claims 6, 9, 12 and 13, see blocks in figure 1.

Ohsawa

10) **Claims 1, 3, 6, 7, 9 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ohsawa (US 2001/0032691).**

See figure 19. The claimed caverns read on the smaller grooves 56 in the sidewalls of the circumferential groove separating one block row from another block row. As to claim 3, the smaller grooves have a sloped roof. See figure 19. As to claim

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11, the smaller grooves 56 appear to radially overlap. In any event: As to claim 11, it would have been obvious to one of ordinary skill in the art to arrange the smaller grooves such that they radially overlap as claimed since (1) Ohsawa shows arranging the smaller grooves 56 in an overlapping manner in figure 19 and (2) Ohsawa teaches spacing the smaller grooves so as to generate minute turbulences for reducing resistance to water flow and thereby improving wet performance.

Remarks

11) The remaining references are of interest.


12) No claim is allowed.

13) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
June 11, 2005


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PRIMARY EXAMINER
~~GROUP 1300~~
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6-11-05